

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION
CIVIL ACTION NO.: _____**

TONDJA R. WOODS,

Plaintiff,

vs.

PEERLESS INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

**(removed from Forsyth County, North
Carolina Superior Court, 10-CVS-728)**

NOW COMES THE DEFENDANT, Peerless Insurance Company, by and through undersigned counsel, and hereby files this Notice of Removal pursuant to 28 USC §§1332, 1441, and 1446, removing this civil action to the United States District Court for the Middle District of North Carolina, from the Superior Court of Forsyth County, Civil Action Number 10-CVS-728, and states as follows regarding the grounds for removal:

1. On or about January 26, 2010, Plaintiff, Tondja R. Woods, filed a Complaint in the Superior Court of Forsyth County, Civil Action Number 10-CVS-728 against Defendant Peerless Insurance Company. The Summons and Complaint were not received by Peerless Insurance Company until on or about February 8, 2010. The Complaint alleges that the Plaintiff Tondja R. Woods is entitled to a defense and indemnity (regarding a lawsuit that has been pending since 2007) under an insurance policy issued by Peerless Insurance Company. Plaintiff Tondja R. Woods seeks a defense and indemnity under the insurance policy for claims alleging criminal conversation and alienation of affections. In addition to her claims for declaratory judgment, Plaintiff, Tondja R. Woods, alleges claims against Peerless Insurance

Company for breach of contract and unfair and deceptive trade practices, including claims for treble damages.

2. The United States District Court for the Middle District of North Carolina has original jurisdiction over this action pursuant to 28 USC §1332 because the amount in controversy is believed to exceed \$75,000.00 (exclusive of interest and costs), and the lawsuit is between citizens of different states. The Plaintiff is allegedly a citizen and resident of Forsyth County, North Carolina, and the Defendant Peerless Insurance Company is an insurance company organized and existing under the laws of the State of New Hampshire, with its principal place of business in New Hampshire.
3. The Plaintiff, Tondja R. Woods, served the Summons and Complaint on the North Carolina Department of Insurance (Commissioner of Insurance), as alleged agent of Peerless Insurance Company, on or about February 1, 2010. Thereafter, the North Carolina Department of Insurance forwarded a copy of the Civil Summons and Complaint to Peerless Insurance Company in Keene, New Hampshire, and the Summons and Complaint was received by Defendant Peerless Insurance Company on or about February 8, 2010. Pursuant to 28 USC §1446(b), this Notice of Removal has been filed within 30 days after the receipt by the Defendant of a copy of the initial pleading setting forth the claims for relief upon which this removal is based. A copy of the Summons and Complaint, and any pleadings or other documents, that were served upon Defendant are attached hereto collectively as Exhibit "A".
4. Pursuant to 28 USC §1446(d), a copy of this Notice of Removal is being served upon all adverse parties, and a copy of this Notice of Removal is being filed with the Clerk of the Superior Court of Forsyth County, North Carolina. Attached is a Certificate of Service

showing that Notice of Filing of this Notice of Removal is being filed with the Clerk of Superior Court of Forsyth County.

WHEREFORE, Defendant hereby removes this civil action to the United States District Court for the Middle District of North Carolina.

This 2nd day of March, 2010.

MOREAU & MARKS, PLLC

/s/ W. Timothy Moreau

W. Timothy Moreau

419 South Sharon Amity Road, Suite C

Charlotte, North Carolina 28211

Telephone: (704) 362-2919

Facsimile: (704) 442-2668

North Carolina Bar #19598

tmoreau@moreauandmarks.com

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on **March 2, 2010**, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following, and this Notice of Removal was also served on counsel for Plaintiff, through counsel of record, by depositing same in the United States Mail, first-class, postage prepaid, addressed as follows and by facsimile:

Mr. A. Doyle Early, Jr.
Mr. Lee C. Hawley
Wyatt Early Harris Wheeler
PO Drawer 2086
High Point, NC 27261
Attorneys for Plaintiff

I hereby further certify that a copy of the Notice of Removal will be filed with the Clerk of Superior Court for the state court of Forsyth County, North Carolina, via overnight Federal Express delivery.

This 2nd day of March, 2010.

MOREAU & MARKS, PLLC

/s/ W. Timothy Moreau
W. Timothy Moreau
419 South Sharon Amity Road, Suite C
Charlotte, North Carolina 28211
Telephone: (704) 362-2919
Facsimile: (704) 442-2668
North Carolina Bar #19598
Tmoreau@moreauandmarks.com
Attorney for Defendant